HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT APPEAL (SR) No.30900 OF 2006

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Between:

Heriditary Honorary President and

Correspondent, Sri Mandati Reedy Dora

Educational Society, Sree Veera Hanuman

Teacher Education Training Institution,

Chintagunta Rural, Markapur Mandal,

Prakasam District, rep. by M. Tirupathi Reddy

……Appellant

And

The Controller of Examinations,

Nagarjuna University, Nagarjuna Nagar,

Guntur District, Andhra Pradesh and

three others

……Respondents

:: JUDGMENT ::

Counsel for the Appellant : Sri Sadu Rajeshwar Reddy

Counsel for the Respondents : Sri T.S. Harnath

Dated: 13-04-2006

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 10.2.2006 passed by the learned Single Judge who declined the petitioner's prayer for issuance of a mandamus to the authorities of Nagarjuna University, Guntur (for short 'the University') to issue hall tickets to 11 students for appearing in B.Ed., examination.

Sri Mandati Reddy Dora Educational Society, Chintagunta Rural, Markapur Mandal, Prakasam District (hereinafter described as 'the Society') applied to Southern Regional Committee of National Council for Teacher Education (for short 'NCTE') for permission to establish B.Ed., College. It also filed an application for grant of affiliation by the University. After some time, Hereditary Honorary President and Correspondent of the Society filed Writ Petition No. 3193 of 2004 for directing the respondents to grant recognition and affiliation. The learned Single Judge, vide his order dated 31-1-2005, disposed of the writ petition by directing the Regional Director, Southern Regional Committee of NCTE to consider the application made on behalf of the Society and pass appropriate order in accordance with law. In compliance of that order, the competent authority considered the application of the Society, but did not accord recognition because of certain deficiencies. This was conveyed to the appellant, vide letter dated 15-4-2005.

After sometime, the appellant filed Writ Petition No.5948 of 2005 for issuance of direction to the respondents to accord recognition and affiliation for establishing B.Ed. College. The appellant also filed WPMP No. 7893 of 2005 for issuance of interim direction to the respondents for grant of recognition and affiliation. By an order dated 29-4-2005, a learned Single Judge directed the Regional Director, Southern Regional Committee, NCTE to pass order for grant of recognition and permission to the petitioner (appellant herein) for the academic year 2004-05 within one week from the date of receipt of order with a stipulation that if appropriate order is not passed, then the recognition and permission will be deed to have been granted to the institution for B.Ed., and TPT Courses. The State Convener, LPCET-2003 was also directed to allot students to the institution.

Luckily for the system and unfortunately for the appellant, the learned Single Judge who finally heard Writ Petition No. 5948 of 2005, took cognizance of the fact that the application made by the petitioner for grant of recognition and permission had been returned by the Southern Regional Committee of NCTE because there were some deficiencies in it and held that in view of this development, a writ of mandamus cannot be issued for grant of recognition and permission. Accordingly, he dismissed the writ petition vide order dated 21-06-2005. Writ Appeal No. 1223 of 2005 filed by the appellant was dismissed by the Division Bench on 4-7-2005. The relevant extracts of that order are reproduced below:

> "We wonder how could such a direction be given by this Court. The learned Single Judge found that once the Court granted direction for considering the applications, the 1st respondent issued a letter to the writ petitioner on 15.4.2005 pointing out certain deficiencies. Those deficiencies were not removed and nothing was done in pursuance the letter written by the 1st respondent to the petitioner on 15.4.2005. Since the appellant-writ petition had not complied with the requirements communicated to him by the 1st respondent vide letter dated 15.4.2005, therefore, its application was rejected.
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> In our view, there was nothing wrong in rejecting the application as petitioner had not satisfied the conditions necessary for recognition."

It is borne out from the record that Southern Regional Committee of NCTE had challenged interim order dated
29-04-2005 passed by the learned Single Judge in W.P.M.P No. 7893 of 2005 by filing Writ Appeal (SR) No. 65921 of 2005 but the same was disposed of as infructuous on 27-07-2005 apparently because the main writ petition bearing number 5948 of 2005 was dismissed by the learned Single Judge and Writ Appeal No. 1223 of 2005 was dismissed by the Division Bench.

Notwithstanding the fact that the appellant could not persuade this Court to entertain its prayer for issuance of a mandatory direction to Southern Regional Committee of NCTE and the University to accord recognition and affiliation, it admitted certain number of students in the B.Ed Course. The students must not be aware of the fact that the appellant does not have recognition from NCTE and is not affiliated to the University and they must have been surprised when the University refused to entertain their forms for examination. Faced with the dilemma of being deprived of the opportunity to take the examination, eleven students filed Writ Petition No. 166 of 2006 for issuance of a direction to the University to admit them to B.Ed examination. That petition was dismissed by the learned Single Judge on 05-01-2006. Writ Appeal No. 35 of 2006 filed against the order or the learned Single Judge was dismissed by the Division Bench and Special Leave Petition No. 3290 of 2006 was dismissed by the Supreme Court on 20-03-2006.

Soon after the dismissal of the writ petition and writ appeal filed by the students, the appellant filed Writ Petition No.1294 of 2006 for directing the University and its functionaries to allow the students to take the examination. The learned Single Judge noted that application made by the appellant for grant of affiliation is yet to be decided and refused to entertain the appellant's prayer on the premise that writ petition and writ appeal filed by the students for similar relief had already been dismissed.

We have heard learned counsel for the parties at considerable length and perused the record. In our opinion, the writ petition filed by the appellant was a piece of vexatious litigation, which deserved to be dismissed at the threshold and the learned Single Judge did not commit any error by doing so. It is beyond our comprehension

as to how the appellant could admit students to the B.Ed., course despite the fact that NCTE had not granted recognition and permission for starting B.Ed Course and its application for grant of affiliation was pending with the university. However, the fact of the matter is that the appellant admitted some students into B.Ed, course and, as mentioined above, the writ petition, writ appeal and special leave petition filed by the students were dismissed by the learned single Judge and Division Bench of this Court and the Supreme Court respectively.

In our view, a college or an institution which does not have recognition from the competent body like NCTE and affiliation from a recognized University has no right to admit even a single student to the professional course of B.Ed and there is no valid ground and justification for the Court to issue mandates to the University to allow the students to take the examination.

We may also mentioned that during the course of hearing, Sri Sadu Rajeshwar Reddy gave out that B.Ed., examinations have already been completed and, therefore, the University may be directed to hold special test for the students of appellant's institution. In our opinion, there is no legal basis for entertaining this prayer of the learned counsel because admissions of the students in the appellant's institution were per se illegal.

For the reasons mentioned above, the appeal is dismissed.

G.S.SINGHVI, CJ

G.BHAVANI PRASAD,J

20-04-2006

ks/vtv/svs